IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EMMANUEL DURAN	:	**CIVIL ACTION**
Petitioner-pro se	:	
	:	**NO. 18-310**
v.	:	
	:	
COMMONWEALTH OF	:	
PENNSYLVANIA, *et al*.	:	
Respondents	:	

O R D E R

AND NOW, this 17th day of July 2019, upon consideration of the petition for writ of *habeas corpus*, (the "Petition") filed by *pro se* Petitioner Emmanuel Duran ("Petitioner"), [ECF 1], the Commonwealth's response in opposition thereto, [ECF 16], the *Report and Recommendation* (the "R&R") issued on April 24, 2019, by the Honorable Jacob P. Hart, United States Magistrate Judge (the "Magistrate Judge"), which recommended that the Petition be granted, and that Petitioner shall either be granted a new trial within 120 days or be released from custody, [ECF 18], the Commonwealth's letter to the Court providing that it will not file objections to the R&R, [ECF 24], and the filings and available state court record, it is hereby **ORDERED** that:

1. The Report and Recommendation is **APPROVED AND ADOPTED**;

2. Petitioner's petition for a writ of *habeas corpus*, [ECF 1], is **GRANTED**;[1] and

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[1]   Briefly, Petitioner asserts, *inter alia*, that he is entitled to a new trial because the state trial court improperly denied him the right of self-representation at trial, despite his timely and unequivocal request to represent himself, on the ground that Petitioner had insufficient legal knowledge. Because this Court agrees that Petitioner's request was timely and unequivocal, and finds that the trial court's reasoning that he should not be permitted to defend himself based on his lack of legal knowledge was contrary to clearly established federal law, the Petition is granted, and Petitioner shall be granted either a new trial within 120 days, or be released from custody.

3. Petitioner shall either be granted a new trial within 120 days or be released from custody.

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BY THE COURT:

/s/ *Nitza I. Quiñones Alejandro*
NITZA I. QUIÑONES ALEJANDRO
Judge, United States District Court

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